

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
DEREK CARROCA	)	
	)	
Plaintiff,	)	
	)	Civil Action No.
v.	)	
	)	
ALL STAR ENTERPRISES AND	)	
COLLISION CENTER, INC. and	)	
ROBERT CUCURULL	)	
	)	
Defendants.	)	
_____	)	

COMPLAINT AND JURY DEMAND

I. INTRODUCTION

Plaintiff Derek Carroca was employed as an auto body repairman by the defendants. The plaintiff regularly worked in excess of 40 hours per week and was not compensated at one and one half times his regular rate of pay for his overtime hours.

II. PARTIES

1. Plaintiff Derek Carroca ("Mr. Carroca") is a natural person who resides in Peabody, Massachusetts.

2. Defendant All Star Enterprises and Collision Center, Inc. ("All Star Enterprises") is a corporation organized under the laws of the Commonwealth of Massachusetts with a principal place of business in Salem, Massachusetts.

3. Defendant Robert Cucurull ("Ms. Cucurull") is a natural person who, on information and belief, resides in Massachusetts and is the president of All Star Enterprises.

### III. JURISDICTION

4. This court has jurisdiction to address the subject matter of this action pursuant to Section 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201, et seq.)

### IV. FACTS

5. Mr. Carroca was hired by the defendants in August, 2010 as an auto body repairman.

6. During the course of his employment, Mr. Carroca regularly worked in excess of 40 hours per week and was not compensated in the amount of one and one half times his regular rate of pay for his overtime hours.

### V. CAUSES OF ACTION

#### NON-PAYMENT OF OVERTIME WAGES IN VIOLATION OF THE FAIR LABOR STANDARDS ACT, 29 U.S.C 201, et seq.

7. The plaintiff hereby realleges and incorporates by reference the facts and allegations contained in the preceding paragraphs of this pleading as if fully set forth herein.

8. All Star Enterprises is and at all times material hereto has been an "enterprise," within the meaning of Section 3(r) of the Fair Labor Standards Act, 29 U.S.C. 201, et seq. (hereinafter "FLSA") and an "enterprise engaged in commerce or in production of goods for commerce," within the meaning of Section 3(s) of the FLSA.

9. All Star Enterprises is and at all times material hereto has been an employer of Mr. Carroca for purposes of the FLSA.

10. Mr. Cucurull has, at all times material hereto, been an employer of Mr. Carroca for purposes of the FLSA.

11. Throughout the course of his employment, Mr. Carroca consistently worked hours that he was not paid for with the actual or constructive knowledge of the defendants.

12. The defendants' failure to pay Mr. Carroca overtime wages was done either willfully or with reckless disregard of the FLSA.

13. The defendant's violation of the FLSA entitles Mr. Carroca to recover his unpaid overtime wages, interest, liquidated damages (in an amount equal to his unpaid overtime wages), reasonable attorney's fees, and the costs of action.

#### **VI. PRAYER FOR RELIEF AND JURY DEMAND**

WHEREFORE YOUR PLAINTIFF DEREK CARROCA prays that this Honorable Court:

1. Enter final judgment against the defendants awarding the plaintiff two times his unpaid overtime wages, reasonable attorney's fees, and the costs of this action;

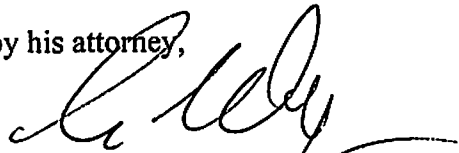
2. Enter final judgment against the defendants awarding the plaintiff such other relief as it deems just, equitable, and appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY AS TO ALL COUNTS SO TRIABLE.

The Plaintiff,

DEREK CARROCA,

by his attorney,

A handwritten signature in black ink, appearing to read 'N. Ortiz', is written over a horizontal line.

Nicholas F. Ortiz, BBO# 655135  
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Dated: July 3, 2012